

111TH CONGRESS
1ST SESSION

H. R. 3986

To amend title 28, United States Code, to clarify the availability of Federal habeas corpus relief for a person who is sentenced to death though actually innocent.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2009

Mr. JOHNSON of Georgia (for himself, Mr. NADLER of New York, Mr. CONYERS, Mr. SCOTT of Virginia, Mr. WEINER, Mr. LEWIS of Georgia, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to clarify the availability of Federal habeas corpus relief for a person who is sentenced to death though actually innocent.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Effective Death Pen-
5 alty Appeals Act”.

1 **SEC. 2. CLARIFICATION OF THE AVAILABILITY OF FEDERAL**
2 **HABEAS CORPUS RELIEF FOR A PERSON WHO**
3 **IS SENTENCED TO DEATH THOUGH ACTU-**
4 **ALLY INNOCENT.**

5 Section 2254(d) of title 28, United States Code, is
6 amended—

7 (1) in paragraph (1), by striking “; or” and in-
8 serting a semicolon;

9 (2) in paragraph (2), by striking the period and
10 inserting “; or”; and

11 (3) by adding at the end the following:

12 “(3) resulted in, or left in force, a sentence of
13 death that was imposed without consideration of
14 newly discovered evidence which, in combination
15 with the evidence presented at trial, demonstrates
16 that the applicant is probably not guilty of the un-
17 derlying offense.”.

18 **SEC. 3. CONFORMING AMENDMENTS RELATING TO SECOND**
19 **AND SUCCESSIVE PETITIONS.**

20 (a) STATE CONVICTIONS.—Section 2244(b) of title
21 28, United States Code, is amended—

22 (1) in paragraph (1), by striking “A” and in-
23 serting “Except as provided in paragraph (5), a”;

24 (2) by adding at the end the following:

25 “(5) A claim that an applicant was sentenced to
26 death without consideration of newly discovered evi-

1 dence which, in combination with the evidence pre-
2 sented at trial, could reasonably be expected to dem-
3 onstrate that the applicant is probably not guilty of
4 the underlying offense may be presented in a second
5 or successive habeas corpus application.”.

6 (b) FEDERAL CONVICTIONS.—Section 2255(h) of
7 title 28, United States Code, is amended—

8 (1) in paragraph (1), by striking “or”;

9 (2) by striking the period at the end of para-
10 graph (2) and inserting “; or”; and

11 (3) by adding at the end the following:

12 “(3) a claim that an applicant was sentenced to
13 death without consideration of newly discovered evi-
14 dence which, in combination with the evidence pre-
15 sented at trial, could reasonably be expected to dem-
16 onstrate that the applicant is probably not guilty of
17 the underlying offense.”.

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